



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

July 18, 2008

OFFICE OF THE
INSPECTOR GENERAL

MEMORANDUM TO: R. William Borchardt
Executive Director for Operations

FROM: 
Stephen D. Dingbaum
Assistant Inspector General for Audits

SUBJECT: MEMORANDUM REPORT: AUDIT OF NRC'S CONTROLS
OVER THE PROCESS FOR ELIMINATING MANAGEMENT
DIRECTIVES (OIG-08-A-14)

The Office of the Inspector General (OIG) conducted an audit of the Nuclear Regulatory Commission's (NRC) process for eliminating management directives. The audit was initiated after OIG learned that agency staff proposed the elimination of Management Directive 8.13, Reactor Oversight Process. Because this is a significant management directive related to the agency's mission, OIG inquired as to what guidance would take its place and examined the agency's process for eliminating management directives. OIG's audit identified issues pertaining to agency guidance that warrant your attention. Specifically,

- The process for eliminating management directives is not clear.
- The agency lacks assurance that its internal and external stakeholders clearly understand NRC's authorities, responsibilities,¹ policies, and procedures.

The results of stakeholders not having clear direction or understanding in regard to the elimination of management directives can manifest into the agency not having the necessary controls in place, including authorities, responsibilities, policies, and procedures, when a management directive is eliminated.

¹ "Authorities" refers to delegations of authority for particular NRC officials to perform certain functions and exercise certain authorities. "Responsibilities" refers to the scope of responsibility assigned to specific NRC officials to fulfill major responsibilities. Moreover, authorities and responsibilities are how NRC officials exercise certain discretionary or legal authority.

BACKGROUND

In 2005, agency officials recognized that NRC's Management Directives System² needed improvements and formed a Management Directives Working Group. The Working Group was tasked to (1) review the agency's current process for developing and revising management directives and (2) draft recommendations for enhancing the efficiency, effectiveness, and timeliness of the Management Directives System. One of the Working Group's recommendations was that directives be reviewed and re-issued every 5 years. As a result, the Office of Administration (ADM) sent a memorandum to all agency offices requesting the status of management directives under their purview. In particular, the Office of Nuclear Reactor Regulation (NRR) responded to ADM's request stating, among other things, that it wanted to eliminate Management Directive 8.13, Reactor Oversight Process.

PURPOSE

The objective of this audit was to determine if NRC has controls to ensure that the appropriate authorities, responsibilities, policies, and procedures remain in place for major functions of the agency when a management directive and handbook³ are eliminated.

RESULTS

Although NRC has a process for eliminating management directives, additional controls are needed. Currently, NRC's process for eliminating management directives is not obvious to agency staff because the guidance lacks specificity. Furthermore, NRC has a system of guidance documents and the correlation of these different types of guidance is not obvious because NRC does not have an official hierarchy of agency guidance. The results of not having clear direction or understanding can manifest into effectiveness and efficiency issues. Moreover, the agency may not retain necessary controls, including authorities, responsibilities, policies, and procedures, when a management directive is eliminated.

Internal Controls: Policies, Requirements, and Procedures

Policies and procedures are an integral part of an agency's internal control process. Internal controls provide reasonable assurance that the agency:

- Is in compliance with applicable laws and regulations.
- Has effective and efficient operations.

² NRC's Management Directives System was established in 1990.

³ For purposes of this report, OIG will refer to both the management directive and handbook simply as the management directive.

NRC's intention is to effectively communicate its basic policies, requirements, and procedures necessary for the agency to comply with Executive orders, pertinent laws, regulations, and the circulars and directives of other Federal agencies. As such, NRC prepares and issues management directives, as well as revisions to these documents, to cover major agency functions and programmatic responsibilities that may be under the purview of one or more organizational units within NRC at any particular time.

Eliminating a Management Directive

The guidance for eliminating management directives is available in Management Directive 1.1, NRC Management Directives System. Essentially, the guidance instructs NRC staff to submit to ADM an NRC Form 521, Request for Publication or Elimination of an NRC Management Directive [see Appendix A for a copy of NRC Form 521], and a copy of the directive and handbook to be eliminated. OIG and the Office of the General Counsel (OGC) must review every proposal to eliminate a directive. Upon receipt of the NRC Form 521, ADM officials will complete and submit NRC Form 522, Approval for Issuance or Elimination of an NRC Management Directive [see Appendix B for a copy of NRC Form 522], to the Chairman or the Executive Director for Operations, as appropriate. When NRC Form 522 has been approved, ADM will notify the affected NRC recipients and system custodians through the Management Directives System monthly update that the directive has been eliminated. ADM will also remove the title of the eliminated directive from the system and place "Reserved" beside its number for future use.

Although the guidance provides the basic steps to be followed, it does not include direction for determining why a management directive should be eliminated or what might be used to replace the management directive.

Proposal To Eliminate Management Directive 8.13

NRR staff stated that the reason for proposing the elimination of Management Directive 8.13 was because the reactor oversight process guidance is contained in several Inspection Manual Chapters⁴ and does not need to be duplicated in a management directive. An NRR official stated that the process to update Inspection Manual Chapters is a formal process; but, it is easier than the process for updating management directives. As a result, NRR decided to proceed with its request to eliminate Management Directive 8.13.

NRR staff notified ADM of its intentions and ADM instructed NRR to complete Form 521. NRR completed the form and delivered it to ADM for a preliminary review. ADM informed NRR that OIG and OGC needed to review the management directive before the NRR Director signed Form 521 and officially submitted it to ADM. In the meanwhile, OIG learned about NRR's proposal to eliminate Management Directive 8.13 and contacted NRR to learn the specifics. During that conversation, the NRR staff person sought to confirm that OIG needed to concur on the proposal to eliminate Management

⁴ Inspection Manual Chapters are documents containing written administrative or inspection program statements of policy.

Directive 8.13. An OIG official explained that OIG would review but not concur⁵ on such documents. The NRR staff person then called OGC to confirm whether that office needed to concur on the Form 521. The OGC official said that OGC did not need to concur prior to the Form 521 being sent to ADM. Based on this information, NRR prepared the package for ADM with a cover memo stating that NRR had “coordinated” the request with OIG and OGC. When NRR learned that OIG would be auditing the process for eliminating management directives, NRR managers decided to place the request to eliminate Management Directive 8.13 on hold pending OIG’s review.

NRR staff stated that the process for eliminating management directives is not well understood, including the criteria for what requires a management directive in the first place. Without knowing the significance of management directives, it is difficult to know if or when a management directive can be eliminated. The Management Directives Working Group also recognized this issue and made a recommendation that the agency adopt and publicize threshold criteria and guidance for the creation and elimination of management directives.

NRC’s System of Guidance Documents

NRC has various types of guidance documents for both internal and external stakeholders. In the Code of Federal Regulations, NRC published a statement of its organization, policies, procedures, assignments of responsibility, and delegations of authority. NRC’s statement is that its Management Directives System and other NRC issuances (like local directives by Regional Offices, letters and memoranda containing directives, delegations of authority, etc.) are where NRC’s policies, requirements, and procedures are available. This statement is an explicit example of the system of guidance documents upon which NRC relies. And, the correlation of these different types of guidance, in particular the importance of management directives, is not obvious.

Agency Guidance Needs To Be Improved

NRC’s process for eliminating management directives and communicating its system of guidance documents needs improvement because:

1. The management directive elimination process lacks specificity.
2. The agency does not have an official hierarchy of guidance documents.

As a result, the agency may not retain necessary controls, including authorities, responsibilities, policies, and procedures, when a management directive is eliminated.

⁵ According to the statutory language in the Inspector General Act, OIG *reviews* and provides comments on existing and proposed policies and legislation, such as management directives. OIG does not *concur* (which means to have or express the same opinion) on proposals to eliminate management directives, or any agency documents.

Elimination Process Lacks Specificity

Although the one-paragraph guidance in Management Directive 1.1 for eliminating management directives basically covers the process, the guidance does not clearly provide the details for completing Form 521. For example, the form has pre-checked boxes requiring OIG and OGC reviews. However, it is not stated or obvious at what point in the process the reviews should take place. Furthermore, there is no instruction on how OIG or OGC should acknowledge that their review was completed. The Form 521 does not provide a way for such acknowledgment by either office.

The guidance for eliminating management directives lacks specificity and can cause confusion among staff and managers involved in the process. For example, efficiency is lost as staff try to determine the appropriate steps for eliminating a management directive.

No Official Agency Hierarchy of Guidance

Agency authorities, responsibilities, policies, and procedures are not always obvious to stakeholders because NRC has no official hierarchy for its system of guidance documents. NRC employees at all levels confirmed to the Management Directives Working Group the importance of an effective system of guidance to help them understand and carry out their responsibilities. However, NRC has not officially published a hierarchy of its guidance documents. For example, nowhere is it stated whether a management directive takes precedence over an inspection manual. Other Federal agencies, such as the Department of Energy, publish an official hierarchy of their guidance documents.

Without an officially documented hierarchy of guidance, staff (particularly newer staff members) may rely on the wrong guidance documents, which could adversely impact their decisions.

RECOMMENDATIONS

The Office of the Inspector General recommends that the Executive Director for Operations:

1. Add specificity to the guidance in Management Directive 1.1 for eliminating management directives.
2. Develop and publish an official hierarchy of NRC guidance.

AGENCY COMMENTS

At an exit conference on July 9, 2008, NRC officials agreed with the report's recommendations and provided editorial suggestions, which OIG incorporated as appropriate.

Please provide information on actions taken or planned on the recommendations within 30 days of the date of this memorandum. Actions taken or planned are subject to OIG followup, as stated in the attached instructions.

SCOPE AND METHODOLOGY

To accomplish the audit's objective, the OIG audit team reviewed management directives, the Management Directives Working Group's final report, the Code of Federal Regulations, and other associated documents. The audit team also interviewed NRC personnel in the Office of the Executive Director for Operations, OGC, NRR, and ADM.

OIG conducted this audit between March and May 2008 in accordance with generally accepted Government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our finding and conclusion based on our audit objective. The work was conducted by Sherri Miotla, Team Leader, and Michael Cash, Senior Technical Advisor.

Attachment: As stated

cc: Chairman Klein
Commissioner Jaczko
Commissioner Lyons
Commissioner Svinicki

NRC Form 521, Request for Publication or Elimination of an NRC Management Directive

NRC FORM 521 (3-2007)		U.S. NUCLEAR REGULATORY COMMISSION	
REQUEST FOR PUBLICATION OR ELIMINATION OF AN NRC MANAGEMENT DIRECTIVE			
TO: Division of Administrative Services, ADM		FROM: (Office and Division or Branch)	
IDENTIFICATION OF DIRECTIVE			
NUMBER AND TITLE			FORMER NUMBER(S)
REPLACES Manual Chapter (MC) and Appendix <input type="checkbox"/> YES (When replacing an MC, the first line of purpose should read: "Directive and Handbook 0.00 replace Manual Chapter and Appendix 0000.") <input type="checkbox"/> NO			
BASIC AUTHORITY FOR ISSUANCE OR ELIMINATION (Cite Executive order, statute, other directive, etc.)			
TYPE OF ISSUANCE <input type="checkbox"/> Directive <input type="checkbox"/> Handbook <input type="checkbox"/> Converted Manual Chapter <input type="checkbox"/> Manual Chapter Appendix		TYPE OF ACTION <input type="checkbox"/> New <input type="checkbox"/> Revision <input type="checkbox"/> Elimination <input type="checkbox"/> Focused Changes	
PURPOSE (Describe in 200 or fewer words) (If eliminating a management directive, provide justification) Please include in the purpose statement a brief discussion (and section location in the directive or handbook) if any of the following changes were made: (1) changes to the responsibilities and authorities; (2) new policy (in directive) or new procedures (in handbook) that affect other offices; (3) new requirements that result in additional coordination among offices in a programmatic area; (4) new areas of coverage; and (5) any other significant or other unusual changes.			
<input type="checkbox"/> All interim policy guidance in Yellow Announcements, and so on, has been incorporated. Complies with Handbook 1.1, Section IIG(3). <input type="checkbox"/> Check here if a summary of comments is attached		<input type="checkbox"/> Contains no sensitive material; has been reviewed in accordance with NRC policy and approved for public release. <input type="checkbox"/> Check here if this directive/handbook qualifies for approval by the Director, Office of Administration, pursuant to Handbook 1.1.	
Check offices to which directive/handbook was sent for comment			
<input type="checkbox"/> ACMUI <input type="checkbox"/> ACNW <input type="checkbox"/> ACRS <input type="checkbox"/> ADM <input type="checkbox"/> ASLBP <input type="checkbox"/> FSME	<input type="checkbox"/> HR <input type="checkbox"/> NMSS <input type="checkbox"/> NRO <input type="checkbox"/> NRR <input type="checkbox"/> NSIR <input type="checkbox"/> OCA	<input type="checkbox"/> OCAA <input type="checkbox"/> OCFO <input type="checkbox"/> OCM <input type="checkbox"/> OE <input type="checkbox"/> OEDO <input checked="" type="checkbox"/> OGC*	<input type="checkbox"/> OI <input checked="" type="checkbox"/> OIG* <input type="checkbox"/> OIP <input type="checkbox"/> OIS <input type="checkbox"/> OPA <input type="checkbox"/> RES
<input type="checkbox"/> RI - RIV <input type="checkbox"/> Region _____ ONLY <input type="checkbox"/> SBCR <input type="checkbox"/> SECY <input type="checkbox"/> Other (specify below) _____			
*OGC and OIG must review each management directive before the office director signs (per MD 1.1).			
STAFF CONTACT		MAIL STOP	TELEPHONE
SIGNATURE: OFFICE DIRECTOR OR REGIONAL ADMINISTRATOR			
NAME		TITLE	
SIGNATURE		DATE	

NRC Form 522, Approval for Issuance or Elimination of an NRC Management Directive

NRC FORM 522 <small>(3-2007)</small>	U.S. NUCLEAR REGULATORY COMMISSION						
APPROVAL FOR ISSUANCE OR ELIMINATION OF AN NRC MANAGEMENT DIRECTIVE							
A. DESCRIPTION OF DIRECTIVE/HANDBOOK							
1. NUMBER AND TITLE							
2. BASIC AUTHORITY FOR ISSUANCE OR ELIMINATION <i>(Cite Executive order, statute, other directive, etc.)</i>							
3. TYPE OF ISSUANCE <input type="checkbox"/> Directive <input type="checkbox"/> Converted Manual Chapter <input type="checkbox"/> Handbook <input type="checkbox"/> Manual Chapter Appendix	4. TYPE OF ACTION <input type="checkbox"/> New <input type="checkbox"/> Elimination <input type="checkbox"/> Revision <input type="checkbox"/> Focused Changes						
B. AUTHORIZATION FOR ISSUANCE							
5. OFFICIAL AUTHORIZING ISSUANCE							
NAME	TITLE						
SIGNATURE	DATE						
C. PURPOSE <i>(Describe in 200 or fewer words) (If eliminating a management directive, provide justification)</i>							
D. TECHNICAL EDITING							
NAME OF EDITOR	DATE COMPLETED:	TELEPHONE NUMBER:					
E. CONCURRENCES FOR ISSUANCE							
OFFICE							
NAME							
DATE							

NRC FORM 522 (3-2007)

PRINTED ON RECYCLED PAPER

Instructions for Responding to OIG Report Recommendations

Instructions for Action Offices

Action offices should provide a written response on each recommendation within 30 days of the date of the transmittal memorandum or letter accompanying the report. The concurrence or clearance of appropriate offices should be shown on the response. After the initial response, responses to subsequent OIG correspondence should be sent on a schedule agreed to with OIG.

Please ensure the response includes:

1. The report number and title, followed by each recommendation. List the recommendations by number, repeating its text verbatim.
2. A management decision for each recommendation indicating agreement or disagreement with the recommended action.
 - a. For agreement, include corrective actions taken or planned, and actual or target dates for completion.
 - b. For disagreement, include reasons for disagreement, and any alternative proposals for corrective action.
 - c. If questioned or unsupported costs are identified, state the amount that is determined to be disallowed and the plan to collect the disallowed funds.
 - d. If funds put to better use are identified, then state the amount that can be put to better use (if these amounts differ from OIG's, state the reasons).

OIG Evaluation of Responses

If OIG concurs with a response to a recommendation, it will (1) note that a management decision has been made, (2) identify the recommendation as resolved, and (3) track the action office's implementation measures until final action is accomplished and the recommendation is closed.

If OIG does not concur with the action office's proposed corrective action, or if the action office fails to respond to a recommendation or rejects it, OIG will identify the recommendation as unresolved (no management decision). OIG will attempt to resolve the disagreement at the action office level. However, if OIG determines that an impasse has been reached, it will refer the matter for adjudication to the Chairman.

Semiannual Report to Congress

In accordance with the Inspector General Act of 1978, as amended, OIG is required to report to Congress semiannually on April 1 and October 1 of each year, a summary of each OIG report issued for which no management decision was made during the previous 6-month period. Heads of agencies are required to report to Congress on significant recommendations from previous OIG reports where final action has not been taken for more than one year from the date of management decision, together with an explanation of delays.